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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEYHAN KARAOGUZ and JAMES BENNETT

Appeal 2009-011089
Application 10/675,467[1]
Technology Center 2400

Before MAHSHID D. SAADAT, MARC S. HOFF, and
THOMAS S. HAHN, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL

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[1] The real party in interest is Broadcom Corporation.

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134 from a Final Rejection of claims 1-31. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellants' invention concerns personally programming media content into customized media channels set up on a media exchange network. The method may include selecting at least one customized media channel established by a user based on at least one input from a user, who selects one or more media for the channel. The identified media may be presented directly in one or more of the customized media channels and/or displayed in a corresponding channel view of one or more of the customized media channels (Spec. ¶ [10]). The customized media channel may also be pushed from a first geographic location to a second geographic location (Spec. ¶¶ [61], [62]).

Claim 1 is exemplary of the claims on appeal:

1. A method for programming media content in a distributed media network, the method comprising:

selecting at least one customized media channel established by a user based on at least one input from said user;

identifying one or more of media, data and/or service for said selected at least one customized media channel; and

presenting, at a first geographic location, directly in said at least one customized media channel, said identified one or more of media, data and/or service, wherein said media channel may be pushed from said first geographic location to a second geographic location.

The Examiner relies upon the following prior art in rejecting the claims on appeal:

Novak	US 2002/0104099 A1	Aug. 1, 2002
Eager	US 6,868,452 B1	Mar. 15, 2005

Claims 1-7, 9-17, 19-27, and 29-31 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Novak.

Claims 8, 18, and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Novak in view of Eager.

Throughout this decision, we make reference to the Appeal Brief ("App. Br.," filed Oct. 2, 2008), the Reply Brief ("Reply Br.," filed Feb. 10, 2009), and the Examiner's Answer ("Ans.," mailed Dec. 16, 2008) for their respective details.

ISSUE

Appellants argue that Novak does not teach "wherein said media channel may be pushed from said first geographic location to a second geographic location," as recited in independent claims 1, 11, and 21 (App. Br. 7).

Appellants' contentions, and the Examiner's findings, present us with the following issue:

Does Novak teach pushing a media channel from a first geographic location to a second geographic location?

FINDINGS OF FACT

Novak

1. Novak teaches that a user can upload media objects from an upload source 122 to a server, which makes the media objects available and accessible through the Internet via a web site 124 or other techniques/connections (Novak ¶ [0039]).

2. Once the media objects are uploaded, information related to the media objects can be displayed in an electronic program guide. The media objects are made available to end users via a "synthetic channel" listed in the electronic program guide (Novak ¶ [0026]).

3. The synthetic channel is a personal channel that can be provided to and selected by those end users, who can tune to the uploaded media programs and view them similarly to regular television programming (Novak ¶ [0069]).

PRINCIPLES OF LAW

"'A rejection for anticipation under section 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference.'" *See In re Buszard*, 504 F.3d 1364, 1366 (Fed. Cir. 2007) (quoting *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994)). Anticipation of a claim requires a finding that the claim at issue reads on a prior art reference. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346 (Fed. Cir. 1999) (quoting *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 781 (Fed. Cir. 1985)).

ANALYSIS

CLAIMS 1-7, 9-17, 19-27, AND 29-31

We select claim 1 as representative of this group of claims, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii).

Appellants argue that Novak does not teach pushing the media channel from one geographic location to a second geographic location because (a) Appellants urge an interpretation of Novak such that the first

geographic location corresponds to the location of set top box 152 (App. Br. 9), (b) Novak discloses that video clips, as opposed to a media channel, are uploaded to a web site by an upload source (App. Br. 10), and (c) Novak does not teach that one user pushes the synthetic channel to another user at a separate and distinct location (App. Br. 11). We do not find any of these arguments to be persuasive of Examiner error.

First, the Examiner finds that Novak's upload source 122 corresponds to the claimed first geographic location, and that set top box 152 corresponds to the claimed second geographic location (Ans. 3-4). Thus, the Examiner also finds that a media channel is pushed from a first location (the upload source) to a second location (the set top box) (*id.*). Appellants present no argument in the Brief that the Examiner's interpretation is erroneous. We are not persuaded by Appellants' Reply Brief argument that the Examiner reads set top box 152 as corresponding to both first and second geographic locations, given the Examiner's explicit statement to the contrary in the body of the rejection (*id.*).

Second, we do not see a distinction between "video clips" and a "media channel," as Appellants argue, and we do not agree that Novak does not establish a customized media channel. Novak teaches that a user can upload media objects from an upload source 122 to a server (FF 1). Once the media objects are uploaded, information related to the media objects can be displayed in an electronic program guide. The media objects are made available to end users via a "synthetic channel" listed in the electronic program guide (FF 2). The synthetic channel is a personal channel that can be provided to and selected by those end users, who can tune to the uploaded

media programs and view them similarly to regular television programming (FF 3).

Third, the claimed invention does not require that *one user* push a media channel from one geographic location to *another user* at another geographic location. The claims only require that the channel be pushed from a first location to a second. The Examiner finds that Novak teaches the pushing of a media channel from upload source 122 ultimately to set top box 152 (Ans. 3-4, 12). Appellants have not established that the Examiner's interpretation is erroneous.

We conclude that the Examiner did not err in rejecting representative claim 1 under § 102 as being anticipated by Novak. Accordingly, we will sustain the rejection of claims 1-7, 9-17, 19-27, and 29-31.

CLAIMS 8, 18, AND 28

Appellants rely on the arguments made with respect to claim 1. Accordingly, we will sustain the § 103 rejection of claims 8, 18, and 28 for the reasons expressed *supra* with respect to the § 102 rejection of claim 1.

CONCLUSION

Novak teaches pushing a media channel from a first geographic location to a second geographic location.

ORDER

The Examiner's rejection of claims 1-31 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

babc